



UNITED STATES PATENT AND TRADEMARK OFFICE

mn
UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

09/896,264

06/29/2001

Alan C. Noble

05110-034001

8039

26161

7590

06/05/2007

FISH & RICHARDSON PC

P.O. BOX 1022

MINNEAPOLIS, MN 55440-1022

EXAMINER

TRUONG, CAMQUY

ART UNIT

PAPER NUMBER

2195

MAIL DATE

DELIVERY MODE

06/05/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No. 09/896,264	Applicant(s) NOBLE, ALAN C.	
	Examiner Camquy Truong	Art Unit 2195	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 May 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: 1-29.
 Claim(s) objected to: None.
 Claim(s) rejected: 1-29.
 Claim(s) withdrawn from consideration: None.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
 13. ☐ Other: _____


MENG-AL T. AN
 SUPERVISORY PATENT EXAMINER
 AIR MAIL ONLY CENTER

Continuation of 11. does NOT place the application in condition for allowance because: Applicant amendment filed on 5/21/07 has been considered but they are not persuasive:

Applicant argued in substance that:

- (1) " Field and Ando do not explicitly teach carrying out at least one of the parsing and layout processes so that the location at which the process is performed can be change between server and client at run time".
- (2)" nowhere in Ando , either alone or in combination with fields is there any teaching or suggestion relating to the server component or processes disclosed at least parsing, layout and rendering processes".
- (3) " there is simply no expressed or implied teaching or suggestion, for the Examiner's proposed combination, in either Ando or Fields, either alone or in combination, or in the general knowledge available to one of ordinary skill in the art without resorting to impermissible hindsight. the possible motivation for Examiner's proposed combination is Applicant own disclosure, the reliance on which constitutes impermissible hindsight reconstruction.

Examiner respectfully disagreed with Applicant's remarks:

As to point (1), Ando teaches client issues a request for a server component and server decides whether the requested server component should be executed on the server or client based on the load balancing between client and server at run time (col. 4, lines 7-21; col. 9, lines 43-55; col. 41, lines 7). Ando does not teach server component is one of parsing or layout process. However, Field teaches server component is parsing or layout process For example, client make a request to server for a web page and the web page is returned to client has to go through at least a set of filters (parse, recast in to a new web page that matches the look and feel, presentation to the client) (col. 4, lines 25 - 63). Therefore, the process as parsing or layout process could be run at either client and server base on the load determining at run time.

As to point (2), Field teaches server component is parsing or layout process For example, client make a request to server for a web page and the web page is returned to client has to go through at least a set of filters (parse, recast in to a new web page that matches the look and feel, presentation to the client) (col. 4, lines 25 - 63). Therefore, the process as parsing or layout process could be run at either client and server base on the load determining at run time.

As to point (3), in response to applicant's argument Applicant argued the possible motivation Examiner' proposed combination. Applicant fails to provide evident to support that examiner making the combination by reading the inventor' application. In addition, in response to applicant's argument that the Examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such reconstruction is proper. In re McLaughlin, 443 F.2d 1392; 170 USPQ 209 (CCPA 1971). In addition, field teaches the hosting web site receives the client process for web page and the hosting processes the request and analysis the returned content by splitting it into component elements, recasting the desired elements and sending the recast content to the requesting client as the web page (col. 3, lines 2-10), and Ando teaches server includes for receiving the request for a process from the client and decides whether the process should be executed on the client or on the server and execute the process (col.3, lines 56-62; col. 8, lines 50-57) . Therefore, both Fields and Ando's references are related to the distributed system in which a server host processes the client requests and returns result information to client. Thus, It would have been obvious to a person of an ordinary skill in the art at the time the invention was made to combine the teaching of Field and Ando because Ando's configuring the software carrying out at least one of the parsing and layout processes so that the location at which the process is performed can be change between server and client at run time to obtain the result of processing faster, which improves the throughput the entire system (col. 4, lines 37-40)..